

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MELVIN DERELL BALDWIN-GREEN,

Petitioner,

v.

XAVIER BECERRA,¹

Respondent.

No. 2:20-cv-1329 DB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1), and he has paid the filing fee. Accordingly, this court will review this action.

A review of the pleading indicates that petitioner has not fully completed the actual application form. Specifically, instead of answering the questions that require substantive responses, petitioner simply writes, "Please see attachment." (See generally ECF No. 1). Thereafter, petitioner attaches a document that describes the nature of his offenses, his judgment and sentence, and the grounds he raised in the California Appellate and Supreme Courts. (See id.

¹ The court notes for the record that petitioner is currently housed at Mule Creek State Prison. (See ECF No. 1 at 1). Patrick Covello currently serves as the acting warden at that facility. Therefore, the court shall direct the Clerk of Court to substitute his name as the respondent in this matter in lieu of "Xavier Becerra." See Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992) (citation omitted) (stating proper respondent in federal habeas corpus petition is petitioner's immediate custodian).

1 at 8-11). The attachment also contains a subsequent section which lists grounds why petitioner
2 believes he is being unlawfully detained. (See id. at 11-12). Because petitioner has filed his
3 petition in this format, it is unclear which claims petitioner wishes to raise in this court, and it is
4 also unclear which claims petitioner has fully exhausted in state court.

5 The court requires all petitions for writ of habeas corpus be filed on the proper form which
6 is provided by this court. Moreover, the court may limit its review of the petition for relief to the
7 information on the form only and need not consider any memoranda or attachments to the
8 petition. See Rule 2(c), Rules Governing § 2254 Cases.

9 Petitioner is hereby notified that in order for this court to review his application, he must
10 refile his petition on the proper form. Furthermore, although petitioner may submit a separate
11 memorandum to support his petition for relief, the court's application form must contain all
12 relevant claims, and must provide the court with all necessary information.

13 In accordance with the above, IT IS HEREBY ORDERED that:

14 1. The Clerk of the Court is directed to:

15 a. Send petitioner this court's habeas corpus application form, and

16 b. Substitute "Patrick Covello, Acting Warden" for "Xavier Becerra" as the
17 respondent in the case caption of the docket;

18 2. Petitioner's application for writ of habeas corpus is dismissed with leave to amend
19 within thirty days from the date of this order,² and

20 3. Any amended petition must be filed on the form employed by this court and must state
21 all claims and prayers for relief on the form. It must bear the case number assigned to this action,
22 and it must bear the title "Amended Petition."

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27 ² By setting this deadline the court is making no finding or representation that the petition is not
28 subject to dismissal as untimely.

Petitioner is warned that failure to comply with the court's directives in this order may result in a recommendation that this action be dismissed.

Dated: July 7, 2020


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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